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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,344	01/28/2004	June A. Abel		3280

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June Ann Abel
383 Prospect Road
Berea, OH 44017

EXAMINER

IZAGUIRRE, ISMAEL

ART UNIT	PAPER NUMBER
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3765

DATE MAILED: 09/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/766,344	Applicant(s) ABEL, JUNE A.	
	Examiner Ismael Izaguirre	Art Unit 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

TITLE

Applicant is asked to shorten the title. A title such as "NEEDLEWORK ACCESSORY FOR PROTECTING NON-WORKING SCROLL BAR MOUNTED FABRIC ENDS" would suffice and be preferred.

SPECIFICATION and DRAWINGS

The examiner has noticed that the drawings include such character references as "Fig. 1A"; "Fig1B" etc, for denoting specific structure defined for the invention in Figure 1, for example. Abbreviations such as "Fig." denote the word "Figure" and having this (Fig. 1A) within a figure proper (Fig.1) may cause a member of the public to be confused. Further, none of these element descriptions (character numbers and letters) appear in the "DETAILED DESCRIPTION OF THE INVENTION" section of the specification. It is more conventional and suggested, instead, that such characterization be replaced in the drawings by simple numbering such as "1" and "2" and including such numbering (accompanied by its description) in the "DETAILED ... INVENTION" section of the specification.

Each number would define a distinct element, such as "1" would define the "needlework accessory" and "2" would define "a magnet" and "3" would define "the direction for joining magnets", etc. The wording found in the drawings would be removed and incorporated into the above noted "DETAILED... INVENTION" section. Applicant will note the cited documents and for example, specifically, where Engle (6,209,240) has used plain character numbers in the drawings and where those

numbers (and accompanying description) appear in the "DETAILED... INVENTION" section. Applicant can use this as a guide in framing her drawings and specification.

CLAIMS

Summary

Claim 1 is the independent claim under consideration in this Office Action.

Claims 2-5 are the dependent claims under consideration in this Office Action.

Claim Format

A claim should begin with a capital letter and end with a single period. See MPEP § 608.01 (m). In claims 1,2,4 and 5, these claims begin with a capital letter but have two periods. Periods may not be used elsewhere in the claims except for abbreviations. This should be corrected.

The "second sentence" descriptive portions of the claims can be removed from the bodies of the claims and incorporated in the aforementioned "DETAILED... INVENTION" section of the specification. Applicant can note the format for claim language in Engle, for example.

Claim Objections

Claim 3 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to another claim in the alternative only. See MPEP § 608.01(n). Replacing this by "as defined in claim 1 or claim 2" would correct this.

Claim Rejections - 35 U.S.C. § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 1-5 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-5 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

Regarding claims 1 and 5, the phrase "or bar like frame" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Regarding claims 3 and 4, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

ALLOWABLE SUBJECT MATTER

Claims 1-5 would be allowable if rewritten or amended to overcome the rejection under 35 U.S.C. § 112.

PERTINENT CITATIONS

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Engle illustrates a holding frame including members 80 for wrapping over the bars for retaining the material being worked on. Rucker illustrates an embroidery frame including side and end connecting cloths 41 and 42 for supporting and connecting to the material being embroidered. Tacchella illustrates a decorative transparent wrap or sleeve for placement over a material on a rod. Duer illustrates a protective covering for use on a handle bar of a shopping cart using magnets. Brown illustrates a fender protector including the use of magnets. Turner illustrates a magnetic frame with magnetic properties for use as a needlework guide. Nielsen et al., and Sargent illustrate covering and retaining systems for a paintbrush and fishing rod including the use of magnets.

INQUIRIES

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ismael Izaguirre whose telephone number is (571) 272-4987. The examiner can normally be reached on M-F (8:30-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (571) 272-4983. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3765

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Ismael Izaguirre', with a stylized flourish at the end.

Ismael Izaguirre
Primary Examiner
Art Unit 3765

II
9/23/05